

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

<b>JUDITH CUNNINGHAM, et al.,</b>	:	<b>CIVIL ACTION NO. 1:12-cv-1238</b>
	:	
<b>Plaintiffs,</b>	:	<b>(Chief Judge Conner)</b>
	:	
<b>v.</b>	:	
	:	
<b>M&amp;T BANK CORP., et al.,</b>	:	
	:	
<b>Defendants.</b>	:	

**ORDER**

AND NOW, this 30th day of October, 2013, upon consideration of the motions to dismiss by M&T Bank Corp., M&T Bank, and M&T Mortgage Reinsurance Co. (collectively, “M&T”) (Doc. 66) and Genworth Mortgage Insurance Corp., Mortgage Guaranty Insurance Corp., and Radian Guaranty, Inc., (collectively, the “primary insurers”) (Doc. 69) seeking dismissal of the plaintiffs’ amended complaint (Doc. 56) pursuant to Federal Rule of Civil Procedure 12(b)(6), and for all of the reasons set forth in the accompanying memorandum, it is hereby ORDERED that:

1. M&T’s motion (Doc. 66) is GRANTED to the extent that it seeks dismissal of Count III as to plaintiffs Judith Cunningham, Frederick Deimler, Carol Vanover, Angela Moore, and Dennis Moore, Jr. The motion (Doc. 66) is DENIED in all other respects.
2. The primary insurers’ motion (Doc. 69) is GRANTED to the extent that it seeks dismissal of Count III as to plaintiffs Judith Cunningham, Frederick Deimler, Carol Vanover, Angela Moore, and Dennis Moore, Jr. The motion (Doc. 66) is DENIED in all other respects.
3. Count III of the plaintiffs’ first amended complaint (Doc. 56) is DISMISSED as to plaintiffs Judith Cunningham, Frederick Deimler, Carol Vanover, Angela Moore, and Dennis Moore, Jr.

4. The parties shall conduct discovery limited to the statute of limitations and equitable tolling issues. This limited discovery shall be completed no later than January 3, 2014. Defendants may then file motions for summary judgment, with supporting briefs not to exceed twenty-five (25) pages, on or before January 24, 2013. If defendants file motions, plaintiffs shall file a consolidated responsive brief, not to exceed fifty (50) pages, on or before February 14, 2013. No reply briefs shall be filed without leave of court.

/S/ CHRISTOPHER C. CONNER

Christopher C. Conner, Chief Judge  
United States District Court  
Middle District of Pennsylvania